
HOUSE BILL No. 1084

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-2.1-20; IC 15-9.

Synopsis: Regulation of pet stores. Provides for the regulation of pet stores and licensing of pet store operators by the state board of animal health. Establishes the pet store licensing fund. Appropriates money to the board to use for regulating pet stores and the licensing of pet store operators.

Effective: July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1084

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-2.1-20-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~Peace Officers'~~
3 ~~Duties~~. All peace officers and law enforcement agencies within this
4 state shall render assistance as is necessary to the board, the state
5 veterinarian, the county veterinarian, or an agent of the United States
6 department of agriculture in enforcing the provisions of this article **and**
7 **IC 15-9**.

8 SECTION 2. IC 15-2.1-20-2 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~Duty of Attorney~~
10 ~~General and Prosecuting Attorney to Enforce Compliance~~. Compliance
11 with the provisions of this article **and IC 15-9** may be enforced by any
12 appropriate action in the name of the state of Indiana, which shall be
13 filed and conducted by the attorney general or the appropriate
14 prosecuting attorney.

15 SECTION 3. IC 15-9 IS ADDED TO THE INDIANA CODE AS A
16 **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1,
17 2005]:

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ARTICLE 9. PET STORE REGULATION

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Animal distributor" means a person who:

- (1) buys and sells animals at wholesale; and**
- (2) does not sell animals as pets directly to individual consumers.**

Sec. 3. "Board" refers to the Indiana state board of animal health established by IC 15-2.1-3-1.

Sec. 4. "Licensee" means the holder of a license under this article.

Sec. 5. (a) "Pet store" means a place where:

- (1) a dog;**
- (2) a cat;**
- (3) a rabbit;**
- (4) a rodent;**
- (5) a nonhuman primate;**
- (6) a bird;**
- (7) any other vertebrate animal; or**
- (8) any other animal customarily obtained as a pet;**

is bought, sold, offered for sale, exchanged, or offered for adoption.

(b) The term does not include the following:

- (1) A store that sells or exchanges fewer than six (6) animals during a twelve (12) month period.**
- (2) A person who sells only the animals that the person has produced and raised.**
- (3) A veterinary hospital or clinic operated by a veterinarian licensed under IC 15-5-1.1.**
- (4) An animal shelter.**
- (5) A place where the sale of livestock (as defined in IC 15-2.1-2-27(a)) is conducted.**
- (6) A place where the sale of poultry by a commercial breeder or distributor is conducted.**
- (7) A place where fish are the only animals sold.**
- (8) A place where the sale of an animal is conducted by:**
 - (A) an animal distributor;**
 - (B) a research facility;**
 - (C) a circus; or**
 - (D) a publicly or privately owned zoological park, petting zoo, or other facility;**

that is licensed or registered by the United States Department

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of Agriculture under the federal Animal Welfare Act of 1970,
7 U.S.C. 2131, et seq., as amended.

Sec. 6. "Pet store operator" means a person who is an owner of
a pet store.

Sec. 7. "Unit" has the meaning set forth in IC 36-1-2-23.

Chapter 2. Duties of the Board

Sec. 1. The board shall administer and enforce this article. The
board may delegate the board's duties to the state veterinarian,
except as provided in IC 15-2.1-3-13.5.

Sec. 2. The board is granted all the powers necessary to fulfill
the board's duties under article. The board may adopt rules under
IC 4-22-2:

(1) that are necessary to carry out this article; and

(2) that prescribe standards for pet stores that satisfy
IC 15-9-5-1.

Sec. 3. The board may do the following:

(1) Subject to IC 15-9-6, investigate complaints concerning
licensees or persons the board has reason to believe should be
licensees, including complaints regarding the failure to
comply with this article or the rules established by the board,
and to take appropriate action under IC 15-9-7 and IC 15-9-8.

(2) Bring an action in the name of the state of Indiana in an
appropriate court to enforce compliance with this article or
the rules established by the board by restraining order or
injunction.

(3) Establish a fee for licensing and renewing a license under
this article.

(4) Prescribe an application form and provide the form to all
persons seeking to be licensed under this article.

(5) Subpoena a person in investigations and hearings under
this article and take the testimony of a person in the same
manner as prescribed by law in civil proceedings in Indiana
courts.

(6) Subpoena and order the production of books, records,
papers, and documents.

(7) Hire the staff necessary to carry out this article.

Chapter 3. Pet Store Operator Licenses

Sec. 1. A person may not operate a pet store without first
obtaining from the board a license authorizing the person to
operate a pet store.

Sec. 2. A person who wishes to obtain a license to operate a pet
store must:

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- (1) apply on a form prescribed and provided by the board;
and
(2) file the application with the board.

Sec. 3. The board may not issue a license under this article until the board has inspected the premises for compliance with this article.

Sec. 4. The board may refuse to issue a license under this article for any of the reasons set forth in IC 15-9-7.

Sec. 5. (a) The fee for the issuance of a license under this article is two hundred dollars (\$200). However, the fee for a license issued in the second year of a licensing cycle with a common biennial renewal date established under IC 15-9-4-1 is one hundred dollars (\$100).

(b) If a board receives an uncertified personal check for the payment of a fee under this article and the bank account does not contain sufficient funds for full payment of the check, the board may void the license for which the check was received.

(c) Unless a rule adopted by the board under this article provides otherwise, a fee paid under this article is nonrefundable.

Sec. 6. A person who:

- (1) holds a license issued under this article; and
(2) operates a pet store;

shall display the license in a place clearly visible to a customer.

Chapter 4. Renewal of a License

Sec. 1. (a) A license issued under this article expires:

- (1) two (2) years after the date of issuance; or
(2) on a common biennial renewal date for all licenses if the board establishes a common biennial renewal date under this article.

(b) The board shall send written notice of the upcoming expiration of a license to each licensee at least sixty (60) days before the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If notice of expiration is not sent by the board, the licensee is not subject to a sanction for failure to renew if, once notice is received from the board, the license is renewed not later than forty-five (45) days after the receipt of the notice.

Sec. 2. The board may renew a license issued under this article if the person who holds the license:

- (1) completes and submits a renewal application prescribed and provided by the board; and
(2) pays a renewal fee in the amount set by the board;

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not later than the expiration date of the license.

Sec. 3. If a person fails to:

- (1) submit a renewal application; and
- (2) pay a renewal fee;

before the expiration date of the license, the board shall send the person written notice of the delinquent application and fee. If the board does not receive the renewal application and fee not later than fifteen (15) days after the date notice was mailed to the person, the person's license becomes invalid without any further action by the board.

Sec. 4. The board may refuse to renew a license for the reasons set forth in IC 15-9-7 even if the licensee pays the renewal fee set by the board to renew the license before the license expires.

Chapter 5. Conduct of a Pet Store Operator

Sec. 1. The board shall adopt rules under IC 4-22-2 to establish standards that require a pet store operator to:

- (1) maintain sanitary conditions of the premises;
- (2) ensure proper ventilation of the premises;
- (3) provide adequate nutrition for all animals under the pet store operator's control;
- (4) provide humane care and treatment of all animals under the pet store operator's control;
- (5) take reasonable care to prevent disease in animals that are released for sale, trade, or adoption; and
- (6) establish a relationship with at least one (1) veterinarian to provide routine veterinary care and advice concerning the animals under the control of the pet store operator.

Sec. 2. A pet store operator may not:

- (1) import or cause to be imported into Indiana; or
- (2) offer for sale or resale;

a dog or cat that is less than eight (8) weeks of age.

Sec. 3. (a) A pet store operator shall provide to the purchaser of a dog or cat the following information concerning the dog or cat available for sale, resale, trade, or adoption:

- (1) The age and sex of the animal.
- (2) The breed of the animal.
- (3) A record of vaccination and veterinary care and treatment.
- (4) A record of surgical sterilization or lack of surgical sterilization.

(b) A pet store operator shall keep:

- (1) a record of the information required by subsection (a);

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1 and
 2 (2) a record of the source of each animal that is purchased
 3 and sold by the pet store operator;
 4 on the pet store premises for at least two (2) years after the pet
 5 store operator sells the animal.

6 (c) A pet store operator shall allow the board access to the
 7 information described in subsection (b) upon request during
 8 normal business hours.

9 **Chapter 6. Investigative Powers**

10 **Sec. 1.** The board or the board's employees may enter onto any
 11 public or private property where a pet store is located during the
 12 store's regular business hours for the following purposes:

- 13 (1) Inspecting the property.
- 14 (2) Examining the animals.
- 15 (3) Conducting tests in regard to the presence of an infectious,
 16 a contagious, or a communicable disease of an animal and the
 17 possible cause and source of a disease.
- 18 (4) Performing any other function authorized by this article.

19 **Sec. 2.** The board shall investigate:

- 20 (1) a pet store;
- 21 (2) a person who may be operating a pet store without a
 22 license;
- 23 (3) an applicant for a license under this article; or
- 24 (4) a licensee;

25 upon receiving a written verified complaint by a person of a
 26 violation of this article.

27 **Sec. 3. (a)** The board may order a licensee to file with the board
 28 information concerning the:

- 29 (1) business conduct of the licensee; and
- 30 (2) practice and management of the licensee's business.

31 **(b)** The board may require that the information filed under
 32 subsection (a) be:

- 33 (1) made under oath; and
- 34 (2) filed within a reasonable, specified period.

35 **Chapter 7. Denial, Suspension, Revocation, and Reinstatement**
 36 **of a License**

37 **Sec. 1.** The board may refuse to issue, refuse to renew, suspend,
 38 or revoke a license under this article for any of the following
 39 reasons:

- 40 (1) A material misstatement in the application for the issuance
 41 or renewal of a license under this article.
- 42 (2) A violation of this article or a rule adopted under this

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article.

(3) Aiding or abetting another person in the violation of this article or a rule adopted under this article.

(4) Making a substantial misrepresentation or false promise in connection with the business of a licensee under this article.

(5) A conviction of a misdemeanor or felony under IC 35-46-3.

Sec. 2. (a) The board may:

(1) deny an application for issuance or renewal of a license;

(2) suspend a license; or

(3) revoke a license;

by issuing a written notice to the applicant or licensee that specifies the alleged violation, the board's action, and the opportunity for a hearing under IC 4-21.5.

(b) If the applicant or licensee fails to file a written request for a hearing with the board not later than fifteen (15) days after receiving the notice under subsection (a):

(1) the right to a hearing before the board is waived; and

(2) the notice becomes a final order under IC 4-21.5.

(c) If a hearing is requested under this section, the board shall hold the hearing in accordance with IC 4-21.5.

Sec. 3. (a) Upon revocation of a license of a pet store operator, the licensee shall surrender the license to the board.

(b) If the licensee fails to surrender the license under subsection (a), the board shall:

(1) seize the license; or

(2) cause the license to be seized.

Sec. 4. The board may reinstate a suspended license to operate a pet store if the pet store operator demonstrates to the board that the pet store operator is able to operate a pet store with reasonable skill, safety, and competency. As a condition of reinstatement, the board may impose disciplinary or corrective measures designed to ensure compliance with this article.

Chapter 8. Enforcement

Sec. 1. (a) If the board determines that a person:

(1) is not:

(A) licensed under this article; or

(B) exempt under this article; and

(2) is engaged in activities that require a license under this article;

the board may issue a cease and desist order and impose a civil penalty under section 3 of this chapter by issuing a written notice to the alleged violator that specifies the alleged violation, the

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board's action, and the opportunity for a hearing under IC 4-21.5.

(b) If an alleged violator fails to file a written request for a hearing with the board not later than fifteen (15) days after receiving the notice under subsection (a):

(1) the right to a hearing before the board is waived; and

(2) the notice becomes a final order under IC 4-21.5.

(c) If a hearing is requested under this section, the board shall hold the hearing in accordance with IC 4-21.5.

(d) The:

(1) attorney general;

(2) board; or

(3) prosecuting attorney of a county where a violation under this chapter occurs;

may file an action in the name of the state of Indiana for an injunction or other order to enforce the board's order and this article.

(e) A cease and desist order issued under this section is enforceable in the circuit courts.

Sec. 2. IC 15-2.1-20-1 and IC 15-2.1-20-2 apply to this article.

Sec. 3. (a) If a person violates this article or any rule adopted by the board under this article, the board may do any of the following:

(1) Suspend, revoke, or refuse to issue or renew the license of a pet store operator under IC 15-9-7.

(2) Impose a civil penalty of not more than one thousand dollars (\$1,000) for each violation.

(3) Obtain an injunction against the person if the person is engaging in a method, an act, or a practice that violates this article.

(4) Issue an order of compliance directing the person to take specific action in order to comply with this article.

(b) The board may order a pet store to be closed to the public for up to seventy-two (72) hours to correct deficiencies, if necessary to meet the requirements of this article. If a violation is not corrected, the board may suspend or revoke the license of a pet store operator under IC 15-9-7.

Sec. 4. A person who knowingly or intentionally violates this article commits a Class B misdemeanor.

Sec. 5. If the board has reason to believe that a person has violated IC 35-46-3, the board may refer the matter to the appropriate law enforcement agency for action under IC 35-46-3.

Sec. 6. (a) A unit may adopt an ordinance concerning regulation of pet stores that imposes more stringent or detailed requirements

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than the requirements under this article.

(b) A unit may not enforce an ordinance concerning the regulation of pet stores that contains requirements less stringent or detailed than the requirements under this article.

(c) A unit may not impose or collect a license or registration fee for the regulation of pet stores.

Chapter 9. Pet Store Licensing Fund

Sec. 1. The pet store licensing fund is established to provide funds to regulate pet stores and the licensing of pet store operators under this article. The fund shall be administered by the board.

Sec. 2. The expenses of administering the fund shall be paid from money in the fund. The fund consists of license fees and civil penalties collected under this article.

Sec. 3. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

Sec. 4. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 5. Money in the fund is continually appropriated for use by the board to regulate pet stores and the licensing of pet store operators under this article.

SECTION 4. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "board" refers to the Indiana state board of animal health established by IC 15-2.1-3-1.

(b) As used in this SECTION, "pet store operator" has the meaning set forth in IC 15-9-1-6, as added by this act.

(c) Notwithstanding IC 15-9-3, as added by this act, a pet store operator that is operating a pet store before July 1, 2005, may continue to operate the pet store without a license issued under IC 15-9-3, as added by this act, pending the processing of an application for a license under this SECTION.

(d) A pet store operator described in subsection (c) may submit to the board an application for a license to operate a pet store under IC 15-9-3, as added by this act. To be entitled to continue operating without a license under subsection (c), the pet store operator must submit the application before September 1, 2005. However, the board may allow a pet store operator to continue operating without a license under subsection (c) if:

- (1) the board considers the pet store operator's failure to submit an application before September 1, 2005, to be excusable under the circumstances; and
- (2) the pet store operator submits an application on or before

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- 1 **December 1, 2005.**
- 2 **(e) A pet store operator described in subsection (c) shall cease**
- 3 **operating the pet store if:**
- 4 **(1) the pet store operator fails to submit an application within**
- 5 **the time allowed under subsection (d); or**
- 6 **(2) the board notifies the pet store operator that the board has**
- 7 **rejected the application submitted by the pet store operator**
- 8 **under this SECTION.**
- 9 **(f) This SECTION expires January 1, 2006.**

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